

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GRABER, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
W&Z CONTRACTING)	
CONSTRUCTION, LLC, et al.,)	
)	
Defendants;)	
_____)	No. 4:19 CV 67 CDP
)	
W&Z CONTRACTING)	
CONSTRUCTION, LLC,)	
)	
Counterclaim Plaintiff,)	
)	
v.)	
)	
GRABER, INC., et al.,)	
)	
Counterclaim Defendants.)	

MEMORANDUM AND ORDER


Defendants W&Z Contracting Construction, LLC and Wilmer Urbina Gutierrez move to dismiss plaintiff Graber, Inc.'s complaint, asserting that their release of the mechanic's lien at issue in this case renders Graber, Inc.'s claims against them moot. For the reasons stated in Graber, Inc.'s response to defendants' motion, I disagree with defendants' assertion. The damage allegedly suffered by

Graber, Inc., in this action was not solely on account of the *existence* of the mechanic's lien, but by the act of filing it as well.

Accordingly,

IT IS HEREBY ORDERED that defendants W&Z Contracting Construction, LLC and Wilmer Urbina Gutierrez's Motion to Dismiss Plaintiff Graber, Inc.'s Complaint [58] is **DENIED**.

IT IS FURTHER ORDERED that W&Z Contracting Construction, LLC and Wilmer Urbina Gutierrez's related Motion to Stay Discovery [59] is **DENIED**.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 9th day of December, 2019.